

Customer No.: 31561
Docket No.: 12009-US-PA
Application No.: 10/605,782

REMARKS

Present Status of the Application

The disclosure is objected to because an incomplete sentence is found in paragraph [0004], lines 1-4. The claims 1 and 3-6 are rejected under 35 U.S.C. 103(a), as being unpatentable over Maiti et al. (US Patent 5,885,870) in view of Ohmi et al. (US Patent 6,551,948). Applicants have amended paragraph [0004]. New claims 7 to 16 are added. Reconsideration and withdrawal of the Examiner's rejection is respectfully requested.

Discussion of Office Action Rejections

The Office Action rejected claims 1 and 3-6 under 35 U.S.C. 103(a), as being unpatentable over Maiti et al. (US Patent 5,885,870) in view of Ohmi et al. (US Patent 6,551,948).

MPEP 2142 provides "The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness.....To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable

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expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."

Applicants respectfully assert that Maiti et al. in view of Ohmi et al. is legally deficient for the purpose of rendering claims 1 and 3-6 unpatentable for at least the reason that not every element of the claim was taught or suggested by cited references such that the invention as a whole would have been obvious to one of ordinary skill in the art.

The content of Office Action states that Ohmi teaches a nitridation process for tunnel oxide (see page 4, row 10 -14), but said statement is not supported by the US 6551948. The description is only about stacking of the film and the drawbacks of the prior art. There is no description to express or imply "performing a plasma nitridation process to introduce nitrogen atoms into silicon oxide layer" recited in claim 1. The examiner's conclusion of obviousness is based on improper hindsight reasoning.

Maiti et al. and Ohmi et al., alone or in combination, do not contemplate Element "performing a plasma nitridation process to introduce nitrogen atoms into silicon oxide layer" in this invention. The examiner fails to establish the evidence for prima facie conclusion of obviousness. Applicants therefore respectfully submit that Maiti et al. in view of Ohmi et al does not render the present invention of claim 1 unpatentable. Applicants respectfully request that the Office withdraw of the rejection of claim 1.

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Dependent claims 2-6 are submitted to be patentably distinguishable over the prior art of record for at least the same reasons as independent claim 1 from which these claims respectively depend, as well as for the additional features that these claims recite.

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CONCLUSION

For at least the foregoing reasons, it is believed that the pending claims 1-16 are in proper condition for allowance. If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

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Respectfully submitted,

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